

FILED

UNITED STATES COURT OF APPEALS

NOV 26 2008

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DAROLD J. STENSON,

Plaintiff - Appellee,

v.

ELDON VAIL, Secretary of Washington
Department of Corrections (in his official
capacity), et al.,

Defendant - Appellant.

No. 08-35974

D.C. No. 2:08-cv-05079-LRS
Eastern District of Washington,
Spokane

ORDER

Before: SCHROEDER, KLEINFELD, and BEA, Circuit Judges

The State of Washington's motion to vacate the district court's stay of execution is denied as moot in light of the existing stay entered by the state court.

The denial is without prejudice to renewal of the motion under changed circumstances. The Clerk's November 25, 2008 scheduling order is vacated.